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10/656,695	09/04/2003	William H. Hanewinkel III	907A.0146.U1(US)	8571
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HARRINGTON & SMITH, LLP			SWIATEK, ROBERT P	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/656,695
Filing Date: September 04, 2003
Appellant(s): HANEWINKEL ET AL.

Mr. Mark F. Harrington
For Appellants

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8 May 2006 appealing from the Office action mailed 29 December 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

3,727,059	Reese	4-1973
4,273,183	Altoz et al.	6-1981

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 5, 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Reese (US 3,727,059).

(10) Response to Argument

Instant claims 1, 5, 28 recite an aircraft component comprising a first section adapted for attachment to an aircraft to close an access opening through an exterior surface of the aircraft, and a second section in the form of heat transfer fins extending outwardly from the first section, with the first and section sections being integrally formed as a one-piece member and the first member including a perimeter flange with fastener mounting holes therethrough. The Reese patent discloses a detachable, one-piece fin plate 10 employed with a container for transporting radioactive materials. As shown in Figure 2 of the patent, plate 10 includes a first base section 12 extending from and below a first fin (that fin actually labeled 14) to a second fin adjacent a portion of the lead line for reference numeral 4 (note that numeral 4 is used to denote an outer wall, however, and not the fin); a second section in the form of a plurality of projecting fins 14; and a perimeter flange extending laterally outwardly beyond each of the first and second fins and encompassing apertures for mounting fasteners. Each flange surrounds a portion of the perimeter of the first section, it being observed that appealed claim 28 does not require the flange to *completely circumscribe* the first section. The structure of the Reese fin plate 10 anticipates claims 1, 5, 28.

Puzzlingly, appellants' brief declares the Reese patent does not, in fact, anticipate appealed claim 1 by virtue of the fins 14 not "transfer[ring] heat from the first section to air

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passing by the exterior surface of an aircraft.” This passage is difficult to square with the fact that appealed claim 1 does not recite the combination of an aircraft and a heat transfer element, but sets forth only the heat transfer device (composed of first and second sections). Moreover, in normal use of the Reese heat transfer plate as shown in Figure 3 of the patent, heat is transferred via the fins from the first section of the plate to air moving past a trailer frame 22 on which the plate is situated.

Although the plate 10 of Reese is mounted to a container for radioactive materials, it is “adapted” by virtue of its configuration to be attached at an exterior surface of an aircraft to close an opening and effect heat transfer. The plate need simply be attached to an aircraft rather than to a materials container, with no alteration or other change in its structure required. But is the Reese plate 10 an airplane component? The patent to Altoz et al.—cited merely to provide evidence of the state of the art of aircraft construction but not applied *per se* as part of the 102(b) rejection—clearly discloses that planar heat transfer elements (parts 47, 49 of the Altoz et al. patent) *are* used as components in aircraft. Therefore, the answer to the above question is a solid Yes: heat transfer devices are known aircraft components. In similar fashion, many other objects also are components of aircraft, such as beds, chairs, bolts, windows, food trays, and LCD TVs—to list but a few—although admittedly any given aircraft might employ only a subset of these objects at any time. The examiner agrees with appellants, however, that there is no motivation to combine the Reese and Altoz et al. patents in a 35 USC 103(a) rejection: common sense indeed has been employed here!

Appellants further allege the Reese patent is non-analogous art, pertaining as it does to a heat transfer plate mounted to a radioactive materials container. While this argument might have

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merit in a 35 USC 103(a) rejection, it is moot and does not apply to a rejection under 35 USC 102. In the latter rejection, the prior art need disclose only the recited elements of any given claim and not the environment within which the elements are used. Section 2131.05 of the MPEP summarizes the issue precisely: "A reference may be directed to an entirely different problem than the one addressed by the inventor, or may be from an entirely different field of endeavor than that of the claimed invention, yet the reference is still anticipatory if it explicitly or inherently discloses every limitation recited in the claims."

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Robert P. Swiatek
Primary Examiner, Art Unit 3643

Conferees:

Ms. Teri Luu 

Mr. Timothy Collins 